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MR. WIRT'S JEU D'ESPRIT, AND MR. WARDEN'S APOLOGY.

To the Editor of the Virginia Law Register :

Mr. Henry, in his admirable address before the Virginia State Bar Association, which was published in your November number, relates the incident between Mr. Warden and Mr. Wirt, when the latter wrote the lines, suggested by Mr. Warden's quotation, "*Habet foenum in cornu*," and in this address (page 496) these lines are given as :

"One day it happened in open court,
Wickham tossed Hay on his horns for sport,
Jock, full of wit and Latin too,
Cried '*Habet foenum in cornu*.'"

In Vol. I, page 199, of the *Virginia Historical Register and Literary Advertiser*, published in 1848, a correspondent, "R," relates this incident, but his report of the lines makes them differ somewhat from those quoted by Mr. Henry in his address. That correspondent gave them as follows :

"Wickham tossed Hay in open court,
On a dilemma's horns for sport,
Jock, full of mirth and humor too,
Cries '*Habet foenum in cornu*.'"

I do not refer to this as a criticism on Mr. Henry's quotation — his may be correct — but as the lines last quoted are much smoother, and were evidently reproduced from memory, just as those quoted by Mr. Henry had been, it is not out of place to refer your readers to them.

Our correspondent, however, in reporting this incident, stated, what we would not expect to find in Mr. Henry's address, that when Mr. Wirt had written the lines and handed them to Mr. Warden, "we are told the said Jock could contain himself no longer, but burst into a loud laugh that made the room ring. This roused the court, who seemed disposed to complain of the breach of order, but Mr. Warden, rising to apologize, gravely presented the billet to the judges, who reading it *seriatim*, readily apprehended the case, and very good humoredly accepted the excuse."

In Kennedy's *Life of Wirt*, Vol. I., page 312, published in 1851, the same incident is given, and the lines also, with some slight variation from those given in each of the above cases, as follows :

"Wickham was tossing Hay in court,
On a dilemma's horns for sport,
Jock, rich in wit and Latin too,
Cries, '*Habet foenum in cornu*.'"

According to Kennedy, this incident occurred about 1813.

Mr. Warden was a Scotch lawyer, well known in his day. His name, as counsel, frequently appears in the early Virginia Reports. Mr. Kennedy, in a note in his *Life of Wirt*, Vol. I, page 312, says, that "he was said to be the most homely man, both in face and figure, in the society with which he lived, and his speech was marked by a broad Scotch accent." This accent may account for his being called "Jock" instead "Jack," by his comrades. I have heard that he was de-

formed, either from a broken back or a hunch back, and that he was neat, if not extravagant, in his attire.

Some years ago, I was told by the late Conway Robinson, as I recall it, of an incident in Mr. Warden's life, which I may be pardoned here for presenting, as it is somewhat in keeping with his disarming the court when it was disturbed by his seeming contempt in laughing so loud at Mr. Wirt's *jeu d'esprit*. Mr. Kennedy refers to this incident in his note above referred to, but does not give it as fully as it was told me by Mr. Robinson, who, I suspect, was also the correspondent "R." I will give the incident in full, as I remember it was told to me.

It seems that during the Revolutionary War, or about that time, the House of Burgesses, which in that day was a very dignified body, and jealous of any criticisms of its action, had under discussion some matter which created a great deal of excitement in the public mind. Mr. Warden, in his indignation at something that was said or done by the House, either in some public speech or in an article to one of newspapers of the day, said that the House "is not fit to carry guts to a dead bear." The criticism having been reported to the House, Mr. Warden was summoned before it for contempt, and after the charge had been heard and admitted, he was ordered to appear before the House on a day named, and to purge himself of his contempt by kneeling before the Speaker, in the presence of the House, and humbly retracting the offensive language. On the day appointed for this proceeding, a large number of persons gathered in the house to witness it, including the *élite* of Richmond, among whom Mr. Warden was not unknown. The Sergeant-at-Arms soon appeared at the door of the House with Mr. Warden in charge, and to add, if possible, to his humiliation, proceeded with him up the aisle to a place in front of the Speaker. The resolution of the House, was formally read to him, whereupon he slowly knelt down, with all eyes upon him, and after stating in a loud voice that he had been adjudged guilty of the offence of having said "that this House was not fit to carry guts to a dead bear," and had been required to retract this serious charge on his knees before the Speaker in the presence of the House, he would here humbly retract the language which had given so much offense to the House, and say that "this House is fit to carry guts to a dead bear." Before the House had recovered from its surprise at this unexpected turn, and while the spectators were enjoying Mr. Warden's triumph, he slowly and very deliberately arose from his knees, and while carefully brushing with his hands the dust from his breeches (the floor had not been well swept), he said loud enough to be heard by those near him, "This is a *damned* dirty House," in his broadest Doric, and then slowly walked out.

Perhaps some of your readers may be able to add to this account some interesting details which I have omitted.

Norfolk, Va.

Yours very truly,

WM. W. OLD.